

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ALEJANDRO PRADO,

Petitioner,

v.

DANIEL E. CUEVA,

Respondent.

No. 1:23-cv-01521-KES-EPG (HC)

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS, DISMISSING  
PETITION FOR WRIT OF HABEAS  
CORPUS, DIRECTING CLERK OF COURT  
TO CLOSE CASE, AND DECLINING TO  
ISSUE CERTIFICATE OF APPEALABILITY

(ECF No. 6)

Alejandro Prado (“Petitioner”) is a state prisoner proceeding *pro se* with a petition for writ of habeas corpus brought pursuant to 28 U.S.C. § 2254. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On November 30, 2023, the Magistrate Judge issued findings and recommendations recommending that the petition for writ of habeas corpus be dismissed for failure to state a cognizable claim. (ECF No. 6.) The findings and recommendations were served on Petitioner and contained notice that any objections were to be filed within thirty (30) days of the date of service of the findings and recommendations. (*Id.* at 4.) To date, no objections have been filed, and the time for doing so has passed.

In accordance with the provisions of 28 U.S.C. § 636(b)(1), the Court has conducted a *de novo* review of the case. Having carefully reviewed the entire file, the Court holds the findings and recommendations to be supported by the record and proper analysis.

1 Having found that Petitioner is not entitled to habeas relief, the Court now turns to  
2 whether a certificate of appealability should issue. A petitioner seeking a writ of habeas corpus  
3 has no absolute entitlement to appeal a district court's denial of his petition, and an appeal is  
4 allowed only in certain circumstances. *Miller-El v. Cockrell*, 537 U.S. 322, 335-36 (2003); 28  
5 U.S.C. § 2253. The Court should issue a certificate of appealability if "reasonable jurists could  
6 debate whether (or, for that matter, agree that) the petition should have been resolved in a  
7 different manner or that the issues presented were 'adequate to deserve encouragement to proceed  
8 further.'" *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (quoting *Barefoot v. Estelle*, 463 U.S.  
9 880, 893 & n.4 (1983)).

10 In the present case, the Court finds that reasonable jurists would not find the Court's  
11 determination that the petition should be dismissed debatable or wrong, or that Petitioner should  
12 be allowed to proceed further. Therefore, the Court declines to issue a certificate of appealability.

13 Accordingly,

- 14 1. The findings and recommendations issued on November 30, 2023, (ECF No. 6), are  
15 adopted in full;
- 16 2. The petition for writ of habeas corpus is dismissed;
- 17 3. The Clerk of Court is directed to close the case; and
- 18 4. The Court declines to issue a certificate of appealability.

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21 IT IS SO ORDERED.

22 Dated: March 21, 2024

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UNITED STATES DISTRICT JUDGE